

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

AVANT LOCATION TECHNOLOGIES  
LLC,

Plaintiff,

v.

APPLE INC.,

Defendant.

Civil Action No. 2:24-CV-0757-JRG  
(LEAD CASE)

**JURY TRIAL DEMANDED**

**DECLARATION OF STEPHANIE CALHOUN JEMMINGS IN SUPPORT OF  
DEFENDANT APPLE INC.'S MOTION TO DISMISS OR, ALTERNATIVELY, TO  
TRANSFER TO THE NORTHERN DISTRICT OF CALIFORNIA**

I, Stephanie Calhoun Jemmings, hereby declare:

1. I am employed by Apple Inc. (“Apple”) in Cupertino, California, where I have worked since 2006. My current title at Apple is Senior Manager, Apple Channel Sales Programs. Among other responsibilities, I provide strategic and operational support for a team of Apple employees who work within third-party retailers, such as Best Buy. I help define the roles and responsibilities of Apple employees while at third-party retail locations.

2. I provide this declaration in support of Apple’s motion to dismiss. Unless otherwise indicated below, the statements in this declaration are based upon either my personal knowledge or corporate records maintained by Apple in the ordinary course of business.

**I. Apple’s Employees Within Best Buy’s Stores**

3. Apple’s products are sold to consumers through various sales channels including third-party retailers, such as Best Buy. Those third-party retailers are solely responsible for the management and operation of their own stores.

4. Apple has a national team of employees who work within third-party retail locations, including Best Buy’s stores. Prior to November 6, 2024, there existed three types of Apple employees who worked within Best Buy’s stores: (i) “Lead Apple Solutions Consultants” (“Lead ASCs”); (ii) “Apple Solutions Consultants” (“ASCs”); and (iii) “Part-Time Specialists” (“Specialists”). On November 6, 2024, Apple restructured its staffing to create a new team of “Community Specialists” who assumed the responsibilities of previously performed by Lead ASCs, ASCs, and Specialists. These Apple employees are not involved in the management or operation of Best Buy’s stores. For example, they do not conduct transactions or manage inventory, and they are expressly forbidden by Apple from doing so. Instead, these Apple employees engage with Best Buy’s employees and customers to educate them about Apple’s

products, advocate for Apple's brand, and help customers choose an Apple product that best suits their needs.

**A. Apple's Employees Within Best Buy Stores Before November 6, 2024**

5. Before November 6, 2024, Apple had a total of ten employees who worked within nine different Best Buy stores located in the Eastern District of Texas. Each of these Best Buy locations had only one or two Apple employees assigned to it. Some Best Buy locations in the Eastern District of Texas had no Apple employees assigned to them (*e.g.*, Best Buy's locations in Flower Mound, McKinney, Port Arthur, Sherman, and Texarkana). Apple employees were not present within Best Buy's stores every day that those stores are open. The largest population of Apple employees, the Specialists, only worked part-time within Best Buy stores from Friday to Sunday.

6. While present in Best Buy's stores in the Eastern District of Texas, Apple employees were responsible for engaging with Best Buy's employees and customers, educating them about Apple's products, advocating for Apple's brand, and helping customers choose an Apple product that best suits their needs. Apple employees did not have any Apple merchandise for sale with them while in Best Buy's stores. Best Buy owned the merchandise and demonstration models of Apple's products within Best Buy's stores. Apple did not provide its employees with any Apple products or literature to bring with them to Best Buy's stores. Apple also did not store any products or literature within Best Buy's stores.

7. Apple limited the role of its employees within Best Buy's stores to avoid supplanting the role of Best Buy's employees, who were solely responsible for conducting the business of Best Buy's stores. Apple employees in Best Buy's stores did not exercise any control over Best Buy's employees.

8. Apple's employees lacked access to cash registers within Best Buy and did not complete any transactions with customers at Best Buy. All purchases of Apple products at Best Buy were handled by Best Buy employees. Best Buy also set the prices for the Apple products that it sold.

9. Apple employees also did not manage inventory at Best Buy. Apple employees did not have access to locked inventory within Best Buy's stores or Best Buy's computer systems for checking inventory. All inventory management of Apple products at Best Buy's stores was done by Best Buy employees.

10. Apple employees did not repair products at Best Buy and were not involved in the repair of Apple products at Best Buy locations. Any such repairs were performed and overseen solely by Best Buy employees.

11. Best Buy maintained complete control over the operation of its stores. For example, Best Buy set the hours of operation for its stores. Best Buy controlled who could be present in its stores and had the right to remove Apple employees from Best Buy's stores if it deemed necessary.

**B. Apple's Employees Within Best Buy Stores After November 6, 2024**

12. As part of Apple's change to a "Community Specialist" staffing structure, Apple's Community Specialists are present in Best Buy stores in the Eastern District of Texas on a limited and irregular basis. Each Community Specialist is assigned to roughly 25 third-party retail locations—including Best Buy stores and other third-party retailer stores—to visit for a limited time during the work week. No more than a single Community Specialist is assigned to each Best Buy store in the Eastern District of Texas under this new staffing structure. Moreover, there is no fixed schedule for a Community Specialist's visit to any particular Best Buy store in

the Eastern District of Texas. The timing and duration of a Community Specialist's visits to any particular store vary from week to week.

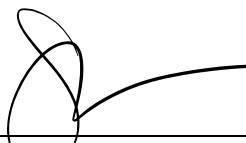
13. Under the new staffing structure, Apple's Community Specialists have the same responsibilities that Lead ASCs, ASCs, and Specialists had under the staffing structure prior to November 6, 2024. The role of Community Specialists is limited to engaging with Best Buy's employees and customers to educate them about Apple's products, advocate for Apple's brand, and help customers choose an Apple product that best suits their needs. Community Specialists do not complete sales transactions, have access to locked inventory, or repair Apple products.

## **II. Apple Does Not Require Its Employees to Live in the Eastern District of Texas**

14. Apple does not dictate where its employees working in the Eastern District of Texas live under Apple's prior and current staffing structures. Apple employees working in the Eastern District of Texas are free to reside wherever convenient for them.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Date: November 19, 2024



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Stephanie Calhoun Jemmings